

§ 960.7

15 CFR Ch. IX (1–1–98 Edition)

(7) Any other information necessary to satisfy the requirements of section 601 of the Act.

(f) Any plans that the applicant, or any affiliate or subsidiary may have for engaging in value-added activities, including a plan and pricing policy for ensuring nondiscriminatory access to unenhanced data.

(g) All existing or anticipated agreements regarding system operation between the applicant, its affiliates and subsidiaries, and any foreign nation, entity or consortium.

(h) Proposed method of disposition of any remote-sensing satellites owned or operated by the applicant.

In the case of an application for an amendment to an existing license, only modifications or additions to previously submitted information need be provided.

§ 960.7 Amendment, withdrawal, and termination of an application.

(a) If information in an application becomes materially inaccurate or incomplete after it is filed but before the license application proceeding is completed, the applicant must promptly file an amendment that contains the corrected or additional information. The applicant should follow the procedures specified in § 960.5 for an original filing.

(b) If the Administrator determines that any amendment constitutes a major and substantial change to the applicant's original proposal, the Administrator may:

(1) Incorporate the amendment into the original application and, if necessary, extend the time period prescribed in the Act and in these regulations for processing the application by no more than 60 days; or

(2) Require the applicant to submit a new license application.

(c) An applicant may withdraw an application at any time before the license application review is completed by delivering or mailing a written notice of withdrawal to the Administrator.

(d) The Administrator shall terminate review of a license application if:

(1) The application is withdrawn before the decision approving or denying it is issued; or

(2) The applicant, after written notice by the Administrator pursuant to § 960.9(c), does not provide adequate additional information to complete the application within the time stated in the written notice.

§ 960.8 Confidentiality of information.

(a) Any person who submits information pursuant to this part, considered to be a trade secret, or commercial or financial information that is privileged or confidential, may request in writing that the information be given confidential treatment. Such request should:

(1) Be submitted at the time of submission of the information; and

(2) State the period of time for which confidential treatment is desired (e.g., until a certain date, or until the occurrence of a certain event, or permanently).

(b) Information for which confidential treatment is requested must be clearly marked with a legend such as "Proprietary Information" or "Confidential Treatment Requested." Where such marking proves impracticable, a cover sheet containing such legend must be securely attached.

(c) If a request for confidential treatment is received after the information itself is received, NESDIS will try to associate the request with copies of the information, but cannot guarantee that such efforts will be effective.

(d) Any request for confidential treatment may include a written justification, stating why the information is a trade secret, or commercial or financial information that is privileged or confidential, and describing:

(1) The commercial or financial nature of the information;

(2) The nature and extent of the competitive advantage enjoyed as a result of possession of the information;

(3) The nature and extent of the competitive harm that would result from public disclosure of the information;

(4) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(5) The extent to which persons other than the person submitting the information possess, or have access to, the same information; and

(6) The nature of the measures that have been and are being taken to protect the information from disclosure.

(e) *Request for disclosure.* (1) Requests for disclosure of information submitted, reported, or collected pursuant to this part shall be in accordance with 15 CFR 903.7.

(2) NOAA will not usually determine whether confidential treatment is warranted until it receives a request for disclosure of the information, unless it would encourage the submission of information not required to be submitted under this part.

(3) Upon receipt of a request for disclosure of information for which confidential treatment has been requested, the Administrator will notify immediately the person who submitted the information and:

(i) Inform such person of the date by which NOAA must determine whether confidential treatment is warranted in order to comply with the request for disclosure (usually within 10 working days of receipt of the request); and

(ii) Inquire whether such person continues to request confidential treatment.

(4) If the person waives or withdraws a request for confidential treatment in full or in part, the person shall deliver to NOAA a written statement to that effect. If the person confirms the request for confidential treatment, such person is strongly encouraged to deliver to NOAA a written statement in sufficient time for NOAA to fully consider it in making its formal determination (generally, not later than the close of business on the fourth working day after being notified under paragraph (e)(3) of this section). Such statement may:

(i) Address the issues listed in paragraph (d) of this section, describing the basis for believing that the information is deserving of confidential treatment, if such a statement was not previously submitted;

(ii) Update or supplement any statement previously submitted under paragraph (d) of this section; and

(iii) Present arguments against disclosure of the information.

(5) To the extent permitted by applicable law, part or all of any statement submitted under this section will be

treated as confidential if so requested by the person submitting the response.

§ 960.9 Review procedures.

(a) The Administrator shall immediately forward a copy of any application or a summary thereof to the Department of Defense, the Department of State, and any other Federal agencies determined to have a substantial interest in the proposed activity, such as the National Aeronautics and Space Administration, and the Department of Transportation. The Administrator shall advise such agencies of the deadline prescribed by paragraph (b) of this section to require additional information from the applicant.

(b) Within 21 days after the receipt of an application, the Administrator shall determine whether the application appears to contain all of the information required by Subpart B of these regulations. In making this determination the Administrator shall consider timely comments provided by the Federal agencies consulted under paragraph (a) of this section.

(c) If the Administrator determines that all of the required information is not contained in the application, the Administrator may require by written notice to the applicant, that the applicant file further information, analysis, or explanation.

(d) If the Administrator requires further information under paragraph (c) of this section, the time limitations prescribed by section 401(c) of the Act do not begin to run until the date on which the Administrator determines that the application appears to be complete and so notifies the applicant.

(e) Within sixty days of receipt of a complete application, each Federal agency consulted under paragraph (a) of this section shall recommend approval or disapproval of the application in writing.

(1) If the Secretary of Defense or the Secretary of State determines that the application may not be approved without modifications or conditions consistent with national security concerns or international obligations, the determination shall clearly state why the modifications or conditions are necessary to accomplish the intended purpose.